

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE  
SENSENBRENNER OF WISCONSIN, OR HIS DESIGNEE, DEBATABLE FOR  
20 MINUTES.

REVISED

AMENDMENT TO H.R. 1561, AS REPORTED  
OFFERED BY MR. SENSENBRENNER OF  
WISCONSIN

Strike section 5 and insert the following:

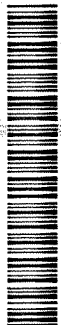
1 SEC. 5. PATENT AND TRADEMARK FUNDING.

2 Section 42(c) of title 35, United States Code, is  
3 amended—

4 (1) by striking “(c)” and inserting “(c)(1)”;  
5 and

6 (2) by adding at the end the following new  
7 paragraph:

8 “(2) There is established in the Treasury a Patent  
9 and Trademark Fee Reserve Fund. If fee collections by  
10 the Patent and Trademark Office for a fiscal year exceed  
11 the amount appropriated to the Office for that fiscal year,  
12 fees collected in excess of the appropriated amount shall  
13 be deposited in the Patent and Trademark Fee Reserve  
14 Fund. After the end of each fiscal year, the Director shall  
15 make a finding as to whether the fees collected for that  
16 fiscal year exceed the amount appropriated to the Patent  
17 and Trademark Office for that fiscal year. If the amount  
18 collected exceeds the amount appropriated, the Director  
19 shall, if the Director determines that there are sufficient  
20 funds in the Reserve Fund, make payments from the Re-



1 serve Fund to persons who paid patent or trademark fees  
2 during that fiscal year. The Director shall by regulation  
3 determine which persons receive such payments and the  
4 amount of such payments, except that such payments in  
5 the aggregate shall equal the amount of funds deposited  
6 in the Reserve Fund during that fiscal year, less the cost  
7 of administering the provisions of this paragraph.”.

In section 6(a), strike “Except as” and all that follows through the end of the sentence and insert “Except as otherwise provided in this Act and this section, this Act and the amendments made by this Act shall take effect on October 1, 2004, or on the date of the enactment of this Act, whichever occurs later.”.

Page 12, strike lines 17 through 20 and insert the following:

8 (d) ADJUSTMENTS.—

9 (1) IN GENERAL.—Section 41(f) of title 35,  
10 United States Code, shall apply to the fees established under the amendments made by this section,  
11 beginning in fiscal year 2005.

12  
13 (2) CONFORMING AMENDMENT.—Effective October 1, 2004, section 41(f) of title 35, United  
14 States Code, is amended by striking “(a) and (b)”  
15 and inserting “(a), (b), and (d)”.

Page 11, add the following after line 24:

1           “(F) If the requirements of subparagraph (E)  
2           are met, the Director shall require that any search  
3           by a qualified search authority that is a commercial  
4           entity is conducted in the United States by persons  
5           that—

6                   “(i) if individuals, are United States citi-  
7           zens; and

8                   “(ii) if business concerns, are organized  
9           under the laws of the United States or any  
10          State and employ United States citizens to per-  
11          form the searches.

Page 12, insert the following after line 16 and redesignate the succeeding subsections accordingly:

12          (d) FEES FOR SMALL ENTITIES.—Section 41(h) of  
13          title 35, United States Code, is amended—

14                (1) in paragraph (1), by striking “Fees” and  
15                inserting “Subject to paragraph (3), fees”; and

16                (2) by adding at the end the following new  
17                paragraph:

18                   “(3) The fee charged under subsection (a)(1)(A) shall  
19           be reduced by 75 percent with respect to its application  
20           to any entity to which paragraph (1) applies, if the appli-  
21           cation is filed by electronic means as prescribed by the  
22           Director.”.

1       Page 8, line 3, add the following after the period:  
2       “For the 3-year period beginning on October 1, 2004, the  
3       fee for a search by a qualified search authority of a patent  
4       application described in clause (i), (iv), or (v) of subpara-  
5       graph (B) may not exceed \$500, of a patent application  
6       described in clause (ii) of subparagraph (B) may not ex-  
7       ceed \$100, and of a patent application described in clause  
8       (iii) of subparagraph (B) may not exceed \$300. The Direc-  
9       tor may not increase any such fee by more than 20 percent  
10      in each of the next 3 1-year periods.”.

